



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

m/041/012

Michael O. Leavitt
Governor

Robert L. Morgan
Executive Director

Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340 telephone
(801) 359-3940 fax
(801) 538-7223 TTY
www.nr.utah.gov

December 2, 2002

Brad Boyter
Western Clay Company, Inc.
508 East Center
Aurora, Utah 84620

Re: Formal Approval of Form and Amount of Replacement Reclamation Sureties, Western Clay Company, Inc., Last Chance Mine (M/015/061) and Bentonite Pits Mine, M/041/012, Emery and Sevier Counties, Utah

Dear Mr. Boyter:

In 2001, the Division performed the standard five-year review of your Last Chance Mine and the Bentonite Pits Mine. The sureties were escalated to year 2006 dollars. Western Clay provided Letters of Credit issued by Utah Independent Bank for the required amounts.

On August 16, 2002, you informed us that you were going to replace the Utah Independent Bank LOC's with LOC's issued by Zions Bank. Through subsequent correspondence, the Division authorized Utah Independent Bank to transfer the funds from the LOC's directly to Zions Bank. On September 11, 2002, we received the replacement LOC's from Zions Bank # [redacted] in the amount of \$96,900 for the Bentonite Pits and [redacted] in the amount of \$51,800 for the Last Chance Mine. On November 15, 2002, the Associate Director of the Division of Oil, Gas and Mining formally approved and executed the form and amount of the replacement reclamation sureties.

Because the sureties had just been escalated in year 2001, the sureties were not updated again at this time, but remain in year 2006 dollars. ***The Division hereby grants its final approval of the replacement reclamation sureties for the Bentonite Pits and the Last Chance Mine escalated to year 2006 dollars.***

Enclosed please find copies of the fully signed and executed Reclamation Contracts and LOC's for your files. Along with this letter, we will forward a copy of the Last Chance documents to the Price BLM office and a copy of the Bentonite Pits documents to the School and Institutional Trust Lands Administration for their records.

Page 2
Brad Boyter
M/015/061 & M/041/012
December 2, 2002

Thank you for your help in finalizing these permitting actions. Please call me if you have any questions in this regard.

Sincerely,

A handwritten signature in cursive script that reads "D. Wayne Hedberg". The signature is written in dark ink and is positioned above the typed name.

D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program

jb
Enclosure
cc: Dean Nyffeler, BLM, Price FO (UTU-69862) w/Last Chance Encl
John Blake, SITLA w/Bentonite Pits Encl.
O:\M041-Sevier\M041012-bentonitepits\final\approval-ltr.doc

RECEIVED

NOV 12 2002

DIV. OF OIL, GAS & MINING

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION of OIL, GAS and MINING
1594 West North Temple Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5291
Fax: (801) 359-3940

RECLAMATION CONTRACT

---ooOoo---

For the purpose of this RECLAMATION CONTRACT the terms below are defined as follows:

"NOTICE OF INTENTION" (NOI): (File No.) M/041/012
(Mineral Mined) Bentonite Clay

"MINE LOCATION":
(Name of Mine) Bentonite Pits
(Description) On county road "Sheep Lane"
1/2 Mile NW of Redmond, Utah

"DISTURBED AREA":
(Disturbed Acres) 33.24
(Legal Description) (refer to Attachment "A")

"OPERATOR":
(Company or Name) Western Clay Company, Inc.
(Address) 508 East Center
P.O. Box 127
Aurora, Utah 84620
(Phone) 435-529-3281 Fax 435-529-3714

"OPERATOR'S REGISTERED AGENT":

(Name)

Lynn M. Carlson

(Address)

4505 South Wasatch Blvd. #300

Salt Lake City, Utah 84124

(Phone)

(801) 277-1040

"OPERATOR'S OFFICER(S)":

Brad Boyter - President

Garin Madsen - Vice President

Fred Mortensen - Shareholder

"SURETY":

(Form of Surety - Attachment B)

Letter of Credit

"SURETY COMPANY":

(Name, Policy or Acct. No.)

Zions Bank

"SURETY AMOUNT":

(Escalated Dollars)

\$96,900 (\$4,500 for SITLA Royalty)

"ESCALATION YEAR":

2006

"STATE":

State of Utah

"DIVISION":

Division of Oil, Gas and Mining

"BOARD":

Board of Oil, Gas and Mining

ATTACHMENTS:

A "DISTURBED AREA":

B "SURETY":

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between Western Clay Company Inc. the "Operator" and the Utah State Division of Oil, Gas and Mining ("Division").

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. M/041/012 which has been approved by the Utah State Division of Oil, Gas and Mining under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (1953, as amended) (hereinafter referred to as "Act") and implementing rules; and

WHEREAS, Operator is obligated to reclaim that area described as the Disturbed Area as set forth and in accordance with Operator's approved Reclamation Plan, and Operator is obligated to provide surety in form and amount approved by the Division, to assure reclamation of the Disturbed Area.

NOW, THEREFORE, the Division and the Operator agree as follows:

1. Operator agrees to conduct reclamation of the Disturbed Area in accordance with the Act and implementing regulations, the original Notice of Intention dated April 15 1983, and the original Reclamation Plan dated April 15 1983. The Notice of Intention as amended, and the Reclamation Plan, as amended, are incorporated by this reference and made a part hereof.
2. Concurrent with the execution hereof, Operator has provided surety to assure that reclamation is conducted, in form and amount acceptable to the Division. Such surety as evidenced by the Surety Contract is in the form of the surety attached hereto as Attachment B and made a part hereof. The Surety Contract shall remain in full force and effect according to its terms unless modified by the Division in writing. If the Surety Contract expressly provides for cancellation, then, within 60 days following the Division's receipt of notice that the Surety Company intends to cancel the Surety Contract, the Operator shall provide a replacement Surety Contract in a form and amount reasonably acceptable to the Division. If the Operator fails to provide an acceptable replacement Surety Contract, the Division may order the Operator to cease further mining activities and to begin immediate reclamation of the Disturbed Area.
3. Operator agrees to pay legally determined public liability and property damage claims resulting from mining to the extent provided in Section 40-8-7(1)(e) of the Act.
4. Operator agrees to perform all duties and fulfill all reclamation requirements applicable to the mine as required by the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
5. The Operator's liability under this Contract shall continue in full force and effect until the Division certifies that the Operator has reclaimed the Disturbed Area in accordance with the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
6. If reclamation of discrete sections of the Disturbed Area is completed to the satisfaction of the Division, and the Division finds that such sections are severable from the remainder of the Disturbed Area, Operator may request the Division to certify that Operator has reclaimed such discrete sections of the Disturbed Area in accordance with the Act and Implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended. If the Division makes such certification, Operator may make request to the Division that the aggregate face amount of the Surety Contract provided pursuant to paragraph 2 be reduced to an amount necessary to provide for completion of the remaining reclamation. The Division shall hear Operator's

request for such reduction in accordance with the Board's Procedural Rules concerning requests for Agency Action.

7. Operator agrees to indemnify and hold harmless the State, Board and the Division from any claim, demand, liability, cost, charge, suit, or obligation of whatsoever nature arising from the failure of Operator or Operator's agents and employees, or contractors to comply with this Contract.
8. Operator may, at any time, submit a request to the Division to substitute surety. The Division may approve such substitution if the substitute surety meets the requirements of the Act and the implementing rules.
9. This Contract shall be governed and construed in accordance with the laws of the State of Utah.
10. If Operator shall default in the performance of its obligations hereunder, Operator agrees to pay all costs and expenses, including reasonable attorney's fees and costs incurred by the Division and/or the Board in the enforcement of this Contract.
11. Any breach that the Division finds to be material of the provisions of this Contract by Operator may, at the discretion of the Division, result in an order to cease mining operations. After opportunity for notice and hearing, the Board of Oil, Gas and Mining may enter an order to revoke the Notice of Intention, order reclamation, or order forfeiture of the Surety Contract, or take such other action as is authorized by law.
12. In the event of forfeiture of the Surety Contract, Operator shall be liable for any additional costs in excess of the surety amount which are required to comply with this Contract. Any excess monies resulting from forfeiture of the Surety Contract, upon completion of reclamation and compliance with this Contract, shall be returned to the rightful claimant.
13. This Contract including the Notice of Intention, as amended and the Reclamation Plan, as amended, represents the entire agreement of the parties involved, and any modification must be approved in writing by the parties involved.
14. Each signatory below represents that he/she is authorized to execute this Contract on behalf of the named party.

OPERATOR:

Western Clay Company Inc.
Operator Name

By Brad Boyter
Authorized Officer (Typed or Printed)

President
Authorized Officer - Position

Brad Boyter
Officer's Signature

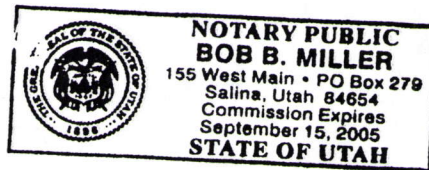
11-8-02
Date

STATE OF Utah)
COUNTY OF Sevier) SS:

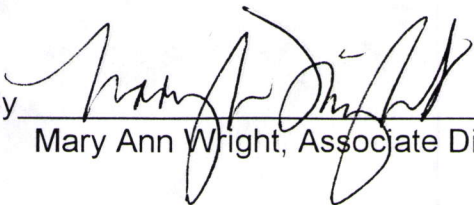
On the 8th day of November, 2002, Brad Boyter
personally appeared before me, who being by me duly sworn did say that he/she is the
President of Western Clay Company, INC. and duly
acknowledged that said instrument was signed on behalf of said company by authority
of its bylaws or a resolution of its board of directors and said Brad Boyter
duly acknowledged to me that said company executed the same.

Bob B. Miller
Notary Public
Residing at Salina, Utah

15 September 2005
My Commission Expires:



DIVISION OF OIL, GAS AND MINING:

By 
Mary Ann Wright, Associate Director

November 15, 2002
Date

STATE OF Utah)
COUNTY OF Salt Lake) ss:

On the 15th day of November, 20 02, Mary Ann Wright personally appeared before me, who being duly sworn did say that ~~he~~she, the said Mary Ann Wright is the Associate Director of the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah, and ~~he~~she duly acknowledged to me that ~~he~~she executed the foregoing document by authority of law on behalf of the State of Utah.



Joelle Burns
Notary Public
Residing at: Salt Lake City UT

April 4, 2005
My Commission Expires:

ATTACHMENT "A"

Western Clay Company Inc.
Operator

M/041/012
Permit Number

Bentonite Pits
Mine Name

Sevier County, Utah

LEGAL DESCRIPTION

Include 1/4, 1/4, 1/4 sections, townships, ranges and any other descriptions that will legally determine where disturbed lands are located. Attach a topographic map of suitable scale (max. 1 inch = 500 feet; 1 inch = 200 feet or larger scale is preferred) showing township, range and sections and a clear outline of the disturbed area boundaries tied to this Reclamation Contract and surety.

The detailed legal description of lands to be disturbed is:

The detailed legal description of lands to be disturbed includes portions of the following lands not to exceed 33.24 acres under the approved permit and surety, as reflected on the attached map labeled Ownership Map and dated 4-21-01:

Portions of N.E. 1/4 Sec 2 T 21 S. R1 W.
and N.W. 1/4 Sec 2 T 21 S. R1 W.
and S.E. 1/4 Sec 35 T 20 S. R1 W.

As Detailed on Attached surveyors map dated 4-21-01

ZIONS BANK

Established in 1873

International Operations
250 E. First Street, Ste 500
Los Angeles, California 90012
Phone: (213) 633-5663 / (800) 551-0110
Fax: (213) 628-8489
S.W.I.F.T: ZFNBUS55

Standby Letter of Credit

L/C No. ZSB800513

IRREVOCABLE STANDBY LETTER OF CREDIT NO. ~~ZSB800513~~

Date: September 10, 2002

RECEIVED

UTAH DIVISION OF OIL, GAS AND MINING
("DIVISION")

1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

SEP 11 2002
DIVISION OF
OIL, GAS AND MINING

Dear Sir/Madam:

At the request of WESTERN CLAY COMPANY ("Operator"), P.O. BOX 127, AURORA, UT 84620, we, ZIONS FIRST NATIONAL BANK ("Bank") hereby establish our Irrevocable Standby Letter of Credit in your favor up to an aggregate amount of Ninety Six Thousand Nine Hundred United States Dollars (USD96,900.00). This credit is available for payment against presentation of your draft(s) at Sight drawn on Zions First National Bank, Los Angeles, California, bearing the clause: "Drawn under credit No. of ZIONS FIRST NATIONAL BANK, Los Angeles, California".

1. This Letter of Credit will expire upon the first event set forth as follows: (a) 5:00 o'clock p.m. (Los Angeles time) on August 25, 2003, or (b) the date upon which sufficient documents are executed by the Division to release Western Clay Company ("Operator") from further liability for reclamation of Bentonite Pits Reclamation Mine, No. 11/041/012 with notice to Bank by the Division accompanied by the original Letter of Credit with directions for cancellation.

2. This Letter of Credit will be automatically extended for successive periods of one year from the current or any future expiration date unless the Bank gives notice to the Division 90 days prior to the expiration date that the Bank elects not to renew the Letter of Credit.

3. Funds under the Letter of Credit are available against the Division's sight draft, in the form of Exhibit A, specifying Letter of Credit No. delivered to the office of the Bank, 250 E. First Street, Suite 500, Los Angeles, California 90012. At the Division's sole election, the Division may present sight drafts for less than the Face Amount so long as the aggregate amount of all sight drafts does not exceed the Face Amount. Each draft must be accompanied by a certificate in the form of Exhibit B, signed by a duly authorized representative of the Division.

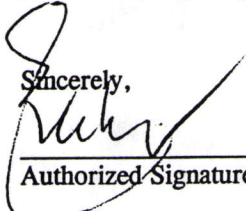
4. If the Bank receives the Division's sight draft(s) and certificate(s) as provided in Paragraph No. 3 above on or before the expiration or termination of this Letter of Credit, the Bank will make such amount as the Division may specify, within the limits of the second sentence of Paragraph No. 3 of this Letter of Credit, available to the Division no later than the close of business, Los Angeles time, on the second business day following the Bank's receipt of the sight draft and certificate and in such a manner as the Division may specify.

5. The Bank will give prompt notice to the Operator and to the Division Director of any notice received or action filed alleging the insolvency or bankruptcy of the Bank, or alleging any violations of regulatory requirements which could result in suspension or revocation of the Bank's charter or license to do business.

6. The Letter of Credit will be governed by the laws of the State of Utah and shall be subject to the Uniform Customs and Practice of Documentary Credit, 1993 revision, International Chamber of Commerce Publication No. 500, as the same may be amended and in effect from time to time ("UCP"). In the event of a conflict between Utah law and the UCP, Utah law shall govern.

7. All communications regarding this Letter of Credit will be addressed to ZIONS FIRST NATIONAL BANK, International Operations, 250 E. First Street, Suite 500, Los Angeles, California 90012, referencing Letter of Credit No. ZSB800513.

Sincerely,



Authorized Signature

EXHIBIT A – SIGHT DRAFT

To
Letter of Credit Number _____

Date

Letter of Credit No.

City, County

PAY TO THE ORDER OF: Utah Division of Oil, Gas and Mining

DOLLARS

TO: ZIONS FIRST NATIONAL BANK, Los Angeles
International Operations
250 E. First Street, Suite 500
Los Angeles, California 90012

Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

By: _____
Authorized Signature

EXHIBIT B

To
Letter of Credit Number _____

I, _____ a duly authorized representative of the Utah Division of Oil, Gas and Mining, hereby certify that (1) the drawing in the amount of \$ _____, by sight draft accompanying this certificate, under Letter of Credit No. _____ dated _____ issued by you is permitted under the provision of the Letter of Credit, (2) the Letter of Credit has neither expired nor terminated pursuant to its terms, (3) the amount of the sight draft, together with any amounts previously drawn under the Letter of Credit, does not exceed the Face Amount, and (4) the Utah Board of Oil, Gas and Mining, after notice and hearing, has entered an Order which has not been stayed, ordering forfeiture of the Letter of Credit No. ZSB800513, in accordance with applicable law. Proceeds of this drawing will be utilized in full to pay the expenses relating to the reclamation liability, together with the costs of collection, including attorneys fees, for the _____ [mine], _____ [mine permit #].

The Utah Division of Oil, Gas and Mining

By: _____
Authorized Signature

Date: _____